



INSURANCE FRAUD ACT: UCA, TITLE 31A, CHAPTER 31

This is not a comprehensive analysis of the Insurance Fraud Act. Please see Utah Code Ann., Title 31A, Chapter 31, for further detail or contact the Office of Legislative Research and General Counsel for additional information.

WHO CAN COMMIT INSURANCE FRAUD

- ▶ Person
- ▶ Service Provider (includes attorney, DOPL-regulated occupation/profession, real estate agent, mortgage broker, others)
- ▶ Insurer

CORE ELEMENTS OF AN INSURANCE FRAUD ACT

- ▶ Intent to deceive or defraud
- ▶ Generally requires it be knowingly committed
- ▶ If involves information, generally must be false, incomplete or misleading, and material

EXAMPLES OF FRAUDULENT INSURANCE ACTS (see UCA §§31A-31-103, 76-6-521 for comprehensive list)

- ▶ Giving false oral or written material information in relation to an insurance policy, certificate, contract, or claim
- ▶ Knowingly accepting benefits derived from fraudulent acts
- ▶ Submitting a bill or request for payment substantially in excess of customary charges or costs, or which contains itemized or delineated fees for what would customarily be considered a single procedure or service
- ▶ Furnishing an item or service to a person that is substantially in excess of that person's needs or of a quality that fails to meet professionally recognized standards
- ▶ Withholding or providing false or misleading information with respect to an application, coverage, benefits, or claims under a policy or certificate
- ▶ Supplying false or fraudulent material information in any document or statement required by the department
- ▶ Assisting in actions listed above

KEY LEGISLATIVE HISTORY (minor changes not noted)

- ▶ Enacted in 1994 with original sunset date of July 1, 1997
- ▶ 1997 - assessment fees increased
- ▶ **1997 - sunset date extended 10 years**
- ▶ 2003 - assessment fees increased, commissioner given rule-making authority to define certain terms
- ▶ 2004 - included provisions for "runners", made assessment fees nonlapsing, provided for civil penalties and criminal conduct, and required disclosure of fraudulent title insurance acts
- ▶ 2005 - provided for health discount program fraud

FEES

- ▶ The commissioner may assess admitted insurers and certain nonadmitted insurers annual fees to administer the Act, Section 34A-2-110, and Section 76-6-521.
- ▶ "Utah Consideration" means: the total premiums written for Utah risks, annuity consideration, membership fees and other fees collected by the insurer, deposit-type contract funds, and other considerations in Utah.

DEPT. OF INSURANCE ANNUAL FEE ASSESSMENT

INSURER'S UTAH CONSIDERATION	INSURER FEE
≤ \$1 million	\$150
> \$1 million ≤ \$2.5 million	\$400
> \$2.5 million ≤ \$5 million	\$700
> \$5 million ≤ \$10 million	\$1,350
> \$10 million ≤ \$50 million	\$5,150
> \$50 million	\$12,350

REMEDIES

Civil penalties include...

- ▶ Full restitution and costs of enforcement (investigators, attorneys, other public employees)
- ▶ In discretion of the court, a civil penalty to be paid to the state not exceeding three times that amount of value sought or received from the fraudulent insurance act

Criminal penalties include...

- ▶ An auditor employed by a title insurer who fails to report a fraudulent insurance act to the commissioner is guilty of a class B misdemeanor
- ▶ A person who commits a health discount program fraud is guilty of a third degree felony

DISCIPLINARY ACTION

- ▶ Notice given, administrative hearing conducted
- ▶ Insurance commissioner may suspend or revoke license of person licensed under Title 31A, or notify appropriate licensing authority of a service provider's misconduct
- ▶ Service provider subject to revocation or suspension of license

ENFORCEMENT STATISTICS SINCE ENACTMENT

- ▶ Insurance Dept. Fraud Division has received over 4,000 referrals, and completed 1,592 investigations
- ▶ Filed criminal charges against 888 individuals and 252 licensed insurance agents, resulting in 818 arrests and 658 convictions
- ▶ Insurance Dept. has collected **\$1,977,908** in fines and restitution

WORKERS' COMPENSATION INSURANCE

- ▶ In any action involving workers' compensation insurance, Section 34A-2-110 supersedes Insurance Fraud Act